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STATE CONTROLLER'S OFFICE  
PERSONNEL/PAYROLL SERVICES DIVISION  
P.O. Box 942850  
Sacramento, CA 94250-5878

DATE: December 16, 2002

PAYROLL LETTER # 02-037  
CIVIL SERVICE ONLY

TO: All Agencies in the Uniform State Payroll System

FROM: RALPH ZENTNER, Assistant Chief  
Personnel/Payroll Services Division

RE: **CHANGES TO GOVERNMENT CODE SECTION 12439, VACANT POSITIONS**

This is to notify departments subject to Government Code Section 12439, that Assembly Bill 3000 (Chapter 1124, Statutes of 2002) made changes regarding the abolishment of vacant positions. The major change in the legislation requires the State Controller's Office to identify and abolish vacant positions that are vacant six consecutive monthly pay periods within one fiscal year or between two consecutive fiscal years.

In addition, the new language in SEC. 12, Subdivision (c) 1-6 states that the State Controller's Office shall reestablish any position for which the director of the department certifies by August 15 that one or more of the following conditions existed during part or all of the six consecutive pay periods.

- (1) The position is necessary for directly providing 24-hour care in an institution operated by the state.
- (2) The position is necessary for the state to satisfy any licensing requirements adopted by a local, state, or federal licensing or other regulatory agency.
- (3) The position is directly involved in services for public health, public safety, or homeland security.
- (4) The position is being held vacant because the previous incumbent is eligible to exercise a mandatory right of return from a leave of absence as may be required by any provision of law including, but not limited to, leaves for industrial disability, nonindustrial disability, military service, pregnancy, childbirth, or care of a newborn infant.
- (5) The position is being held vacant because the department has granted the previous incumbent a permissive leave of absence as may be authorized by any provision of law including, but not limited to, leaves for adoption of a child, education, civilian military work, or to assume a temporary assignment in another agency.
- (6) Elimination of the position will directly reduce state revenues or other income by more than would be saved by elimination of the position.

Each department shall maintain for future independent audit all records on which the department relied in determining that any position or positions satisfied one or more of the criteria specified above.

Departments must prepare Change in Established Positions, STD. 607, for each position to be reestablished for one or more of the above criteria. STD. 607 item 4(a) must be effective 7/1/\_\_\_ of the current fiscal year (e.g., positions lost 6/30/03 would be reestablished effective 7/01/03). Items 4(b) through 6(b) must be completed. Item 10 must cite:

"Reestablish position per GC 12439, Sec. 13, subdivision (c) item number(s)\_\_\_" (list specific item number(s) used to certify eligibility for requesting position to be reestablished). The STD. 607 forms must be received by this office no later than 5:00 p.m. on August 15.

STD. 607 forms received after August 15 will be returned to the department instructing them to obtain approval to reestablish the position(s) from the Department of Finance. These documents must be received in the Department of Finance by September 10.

Documents submitted from July 1 through August 15 to reestablish (self-certified) positions must include the alpha letter "Z" preceding the document number. Documents submitted to Department of Finance between August 16 and September 10 to reestablish (technical correction) positions must include the letter "X" preceding the document number. This will allow for the tracking and reporting of these transactions.

In addition, departments should be aware of the following language that has been added to the Government Code section 12439:

- Subdivision h - "Departments shall not execute any personnel transactions for the purpose of circumventing the provisions of this section." Personnel transactions are identified as Changes in Established Positions, STD. 607, and Requests for Personnel Actions, for example 120 transactions.
- Subdivision i - " Each department shall include a section discussing its compliance with this section when it prepares its report pursuant to Section 13405."

The State Controller's Office will start providing Department of Finance reports on personnel actions.

Questions regarding the SCO process for the identification, reporting and abolishing vacant positions should be directed to the Position Control unit at (916) 323-4928. Questions regarding policy issues should be directed to the Department of Finance, Bob Sands at 445-3274.